

# Exhibit A

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December 5, 2005

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Dear Cindy and Robert:

I am writing on behalf of Sony BMG Music Entertainment ("Sony BMG") in response to your letter of November 30. Sony BMG appreciates your having brought the security issue relating to the SunnComm MediaMax software to its attention. As we have discussed, Sony BMG takes very seriously any security issue with respect to any of its products.

As you know, upon being notified by you of the issue, Sony BMG immediately asked SunnComm to develop an update to fix the problem. As we discussed last night, the update has now been completed. Over the last several days, Sony BMG talked with your security consultants, iSEC Partners, retained its own security consultants, Next Generation Security Software Ltd. ("NGS"), asked NGS to test the update, and sent the update to you and iSEC Partners for review and testing prior to release.

Sony BMG has been informed by NGS that the update completely resolves the security issue. In particular, the update prevents a privilege escalation attack that could take advantage of MediaMax software even if a consumer reinserts a MediaMax-protected CD after running the update. In last evening's discussion, iSEC confirmed,

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based on its own testing and review, that the update does indeed address the issue that it had identified. Based on custom and practice in the software industry, including with respect to other potential vulnerabilities to a privilege escalation attack that have resulted from other forms of consumer software, Sony BMG has addressed the issue in a timely manner and is reassured that it has done so appropriately.

Sony BMG and SunnComm will be releasing the update to the public, making it available through a one-click download from their websites. Sony BMG will be providing information about the update on its website. As you know, Sony BMG continues to be interested in either a joint press statement or parallel press statements that would identify the role that iSEC Partners and EFF have played.

Furthermore, as part of its notification of the security issue and of the availability of the update, Sony BMG will be making public a list of all the titles on which MediaMax software has been used. In addition, as you had requested, Sony BMG will use the banner function of enhanced CDs with MediaMax software to alert consumers who have purchased those CDs and are using them on Internet-connected computers of the availability of the update, as well as the uninstaller (which has been available for several weeks).

You are also aware of all the steps Sony BMG has taken with respect to the XCP software issue. These include cessation of manufacture of CDs with XCP software and taking steps to remove the XCP-protected CDs from the distribution chain. In addition, consumers are able, without cost, to exchange XCP-protected CDs that they have purchased for the same titles without content protection and can, if they wish, return the CDs to the retailers. In addition, purchasers of XCP-protected CDs can obtain free MP3 downloads of the tracks on the CDs that they have purchased.

Furthermore, Sony BMG has provided a security update for the XCP software and just last night released a new program that gives the user the choice of applying the update or uninstalling the XCP software altogether. The update and uninstaller program are being made available through a one-click function from the Sony BMG website that, as has been the case with the update previously provided, does not require the user to provide any personal information. Finally, beyond these steps, as you requested, Sony BMG will be using the banner function to notify users of XCP-protected CDs of the issue and the availability of the update and uninstaller program.

Given all that Sony BMG has done to date and what it is prepared to do with respect to both XCP- and MediaMax-protected CDs, we would like to explore whether we could completely resolve all issues between your clients and Sony BMG. In this

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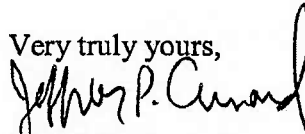
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regard, and in the hopes that our constructive dialogue to date can be furthered, we are willing to discuss a global settlement with you that would include the following elements:

- A moratorium on the manufacture of CDs containing MediaMax software pending a complete re-examination of that software.
- An Internet-based advertising and notice program with regard to the security issues and the availability of the updates and uninstallers that would supplement the banners, as discussed above, as well as the other efforts that are being made to reach users of XCP- and/or MediaMax-protected CDs.
- Further relief, whether economic and/or in the form of free downloads of music, for purchasers of XCP-protected CDs.
- Waiver of Sony BMG's rights to enforce certain provisions of the End User License Agreements for both XCP- and MediaMax-protected CDs.
- A commitment to continue the Sony BMG practice of not aggregating the IP addresses logged through enhanced/connected CDs (if that information is at all retained) with any personally identifiable data, to refrain from using that information to identify individual consumers or for any purpose other than providing the enhancements and to make appropriate disclosures with respect to the privacy-related concerns you have identified.
- Finally, and we trust that Fred, you and others at EFF will appreciate the significance of this, Sony BMG is willing to enter into a discussion with EFF with regard to future use it might make of DRM on CDs. (I personally am looking forward to that exchange.)

Sony BMG has moved quickly and assertively to address the security issue that you have identified with respect to MediaMax. In addition, it has provided substantial relief to purchasers of XCP-protected discs. Please let us know if you would be interested in exploring whether EFF and Sony BMG can agree on what more should be done to finally resolve the issues.

Very truly yours,

  
Jeffrey P. Cunard

cc: Reed R. Kathrein, Esq.  
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